

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-117-C - ORDER NO. 98-458

JUNE 18, 1998

IN RE:	Application of WinStar Wireless of South	)	ORDER
	Carolina, Inc. for Approval for Nunc Pro	)	APPROVING
	Tunc of a Transfer of Assets from MIDCOM	)	TRANSFER
	Communications, Inc. to WinStar Wireless of	)	
	South Carolina, Inc.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of WinStar Communications, Inc. (WinStar) and WinStar Wireless of South Carolina, Inc. (Winstar Wireless) (together, the Applicants) for approval nunc pro tunc of a transfer of assets from MIDCOM Communications, Inc. (MIDCOM) to Winstar Wireless. The transaction has been ordered by the United States Bankruptcy Court of the Eastern District of Michigan. MIDCOM no longer exists as a corporate entity.

The Commission's Executive Director ordered the Applicants to publish a Notice of Filing in newspapers of general circulation one time. The Notice of Filing was to give the public an opportunity to participate in the proceedings. The Applicants filed an affidavit showing that they had complied with the instructions of the Executive Director. No Protests or Petitions to Intervene were filed.

Subsequently, the Applicants moved for expedited review of the Application, and that the hearing requirement be waived. The Motion was based on the fact that the

transaction had already been ordered by a Bankruptcy Court, and no Protests or Petitions to Intervene have been filed in the matter. The Applicants also filed the verified testimony of Russell C. Merbeth, Assistant Vice President of Winstar Wireless.

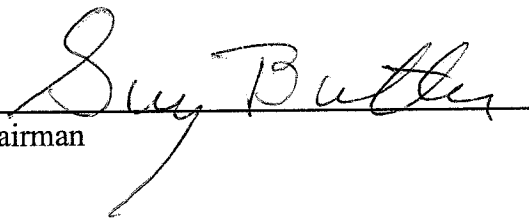
We grant the Motion for Expedited Review. However, we would point out that S.C. Code Ann. Section 58-9-310 (Supp. 1977) requires a “due hearing.” We hold, though, that the regular Commission meeting held on June 16, 1998 constitutes the “due hearing,” since the matter was raised in an open meeting forum.

The verified testimony of Russell Merbeth substantiates the matters stated in the Application, with regard to the ordering of the transfer of assets by the United States Bankruptcy Court of the Eastern District of Michigan. The effect of the order of the court is that MIDCOM’s customers will be served in South Carolina by Winstar Wireless, who is certificated in South Carolina. The transfer of assets has proceeded in a seamless fashion. Because of the action of the Bankruptcy Court, the Applicants were not able to seek prior approval of the transaction from this Commission. They now seek to cure this deficiency by asking for approval nunc pro tunc. Merbeth notes that Winstar Wireless is fully qualified to serve the former customers of MIDCOM.

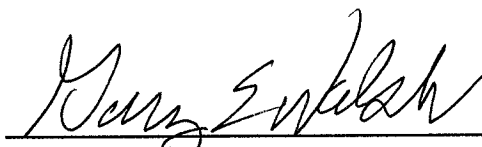
Based on the verified testimony of Merbeth, we hereby approve the transfer as requested nunc pro tunc. We also hereby cancel the Certificate of Public Convenience

and Necessity presently held by MIDCOM. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)